

November 13, 2018
Updated: January 14, 2019
Updated: February 15, 2019
Updated: March 11, 2019

VIA ELECTRONIC DELIVERY

City of Miami Beach Design Review Board

c/o Mr. Thomas Mooney
City of Miami Beach
Planning Department
1700 Convention Center Drive
Miami Beach, Florida 33139

**Re: Design Review Board Application, File No. DRB18-0346 (the “Application”) /
Final Submittal Letter of Intent / 14 Farrey Lane, Miami Beach, Florida (the
“Property”)**

Dear Design Review Board Members:

Our firm represents Chabad Lubavitch of Venetian Causeway and Surrounding Islands, Inc. (the “Applicant”), in connection with certain land use and zoning matters relating to the Property. This correspondence constitutes the letter of intent accompanying the Application requesting design review, variance and waiver approval for the redevelopment of a three-story Chabad House on the Property.

I. The Property History

The Property is located within the Belle Isle community at the northeast intersection of Island Avenue and Farrey Lane. The Property is located within the RM-1 zoning district and is designated Residential Multi-Family, Low Intensity on the City of Miami Beach Official Zoning Map and the City’s Future Land Use Map. The RM-1 zoning district allows religious uses through the Conditional Use Permit process. According to that certain survey prepared by Blanco Surveyors, Inc., and dated November 8, 2018, a copy of which is enclosed, the Property is an irregular shaped lot and contains 4,694 +/- square feet¹.

The Belle Isle neighborhood contains a unique and vibrant mixture of neighboring uses all abutting one another including single family residential, multi-family residential, hotel and park.

¹ The minimum lot size in the RM-1 zoning district is 5,600 square feet; the Property’s lot size is legally non-conforming.

The Property is currently improved with a religious institution known as a “Chabad House”. The existing building on the Property was originally constructed in 1941. On August 24, 2004, the Planning Board approved the Applicant’s request to convert the single-family residence into a place of worship (Order #1676). For your ease of reference, a copy of the Order is enclosed.

For the past 15 years, Rabbi Mann and his family have serviced the religious needs of the Belle Isle and Venetian Islands community at the Chabad House. By way of background, the Rabbi operates the Chabad House as an orthodox institution, but all forms of Judaism are welcome. At the Chabad House, Rabbi Mann performs religious services, as well as hosts educational and spiritual enrichment sessions catered to the local congregation. The Rabbi’s mission at the Chabad House is to provide a relaxed and welcoming environment for local followers to learn more about Judaism and observe the teachings and tenets of Judaism in a safe and intimate space. As a neighborhood Chabad, the congregation is generally localized and is within walking distance (generally less than a one-mile radius)².

II. Design Review Approval

The Applicant intends to construct a new three (3) story, 5,750 square foot Chabad House on the Property in order to sensibly accommodate the Chabad’s local congregation (the “Project”). The Project is designed with Farrey Lane as the Project’s principal frontage, consistent with the as-built conditions of the existing structures on the block. The new facility has congregant access in essentially the same location as it currently exists today with direct access to the redeveloped Chabad House from Island Avenue via a secured entry way on the South. The other means of access is located on the North side of the Property, via a second staircase with direct access from the partially covered parking spaces designed for the Project. The new facility will provide much needed security upgrades for the benefit of the local congregation.

Notwithstanding the undersized nature of the Property, the Project is largely in compliance with the RM-1 zoning regulations per Section 142-155 of the City’s Land Development Regulations (“LDRs”). For example, the Project will result in 5,750 square feet of FAR, below the maximum FAR permitted for the Property in accordance with Section 142-155(a)(1).

The new Chabad House contains many different architectural elements and materials. For example, the main structure contains a mix of stucco and stone clad finishing on the façade. Additionally, tan aluminum decorative louvers border the glass enclosed stairwell on the South and the stairwell on the North. The changes in material and massing, along with the placement of new hurricane impact windows, allow the structure to breathe within a small and unusually shaped lot. The modern design is consistent with the recently approved single-family residences throughout the Belle Isle neighborhood. Similar to these new developments on this street and in accordance with Section 142-155(b), the Chabad House is designed with three (3) stories (where the City LDRs allow 5 stories), and a maximum height of 49 feet as measured to the top of the restroom facilities located on the roof top level. Please note, the main roof slab of the structure, which is the predominate height of the building, is measured at 38 feet. The portion of the structure located 49-feet in height is limited to a small bathroom facility located at the rear of the Property.

² Orthodox Judaism discourages the use of vehicles on the Sabbath (Friday night and Saturday) and religious holidays.

Although the Property will generally operate in the same manner as it exists today, certain functional improvements will be implemented. For example, the current sanctuary space operates as the same venue for all functions which creates operational delay and inconvenience to the religious services. The Project design allows for the bifurcation of religious activities, such as worship services, enrichment and fellowship activities. For example, the second floor consists of a sanctuary space where once the prayer portion of the service is complete, the congregation can transition to an area with tables and chairs for the fellowship component of the service (the “Kiddush”). Note, the study rooms on the third floor are essentially flex space areas; during services, the rooms operate as youth groups for the children, separate from the religious services in the main sanctuary. During non-service hours, those rooms can be used for enrichment, counseling and religious lessons. As demonstrated on the enclosed and updated site plan, prepared by Choeff Levy Fischman Architecture and Design, and dated February 27, 2019, the new design provides meaningful space for the religious services and the Kiddush services to be independent of one another.

The new Chabad House also offers improved administrative space on the third floor where the Rabbi and his wife can meet with congregants in an office or study space to provide various educational and religious enrichment courses such as marital counseling, bar/bat mitzvah lessons and Jewish studies classes. Pursuant to Staff’s recommendation, the rooftop deck has been redesigned to create an environmentally-friendly green roof, laden with approximately 2,981 +/- square feet of significant landscaping to reduce the impact and use of the rooftop deck. As such, the restroom located on the rooftop has been relocated from the primary frontage along Farrey Lane to the rear of the Property, further concealing the structure and allowing increased green space that coincides with the minimal outdoor services reserved for the members of the Chabad House. For example, during the holiday of Sukkot there is an obligation to eat in a Sukkah outdoors. The rooftop space will serve as a beautiful landscape for these limited, religious gatherings.

III. Request for Variances and Waiver

a. Variances

The Applicant is requesting the following variances (“Variance”):

Sec. 142-156 – Setback requirements.

(a) The setback requirements for the RM-1 residential multifamily, low density district are as follows: Front Subterranean and pedestal 20 feet

1. A variance to reduce the required front setback of 20’ in order to construct the upper levels of the Chabad House at 6’6” from the front property line.

Section 142-1131 – Generally.

(d) Minimum side yards, public and semi-public buildings. The minimum depth of interior side yards for schools, libraries, religious institutions, and other public buildings and private structures which are publicly used for meetings in residential districts shall be

50 feet, except where a side yard is adjacent to a business district, a public street, bay, erosion control line or golf course, and except for properties that have received conditional use approval as a religious institution located in the 40th Street Overlay, in which cases the depth of that yard shall be as required for the district in which the building is located. In all other cases, the side yard facing a street shall be the same as that which is required for the district in which the lot is located.

2. A variance to reduce the required at grade parking front setback of 20' in order to construct parking spaces and the vehicular driveway up to the front property line at 0'0".

Section 142-1131 – Generally.

(d) Minimum side yards, public and semi-public buildings. The minimum depth of interior side yards for schools, libraries, religious institutions, and other public buildings and private structures which are publicly used for meetings in residential districts shall be 50 feet, except where a side yard is adjacent to a business district, a public street, bay, erosion control line or golf course, and except for properties that have received conditional use approval as a religious institution located in the 40th Street Overlay, in which cases the depth of that yard shall be as required for the district in which the building is located. In all other cases, the side yard facing a street shall be the same as that which is required for the district in which the lot is located.

3. A variance to reduce the required 50' side interior setback for religious institutions in order to construct the upper level architectural projection of the Chabad House at 6'8". Please note, the primary northern building façade is designed at a 9'7" setback, whereas the requested variance is limited to the architectural projection on the North side of the Property.

As mentioned above, the Property is a platted, irregular shaped lot containing a lot area of 4,694 square feet, where a minimum of 5,600 square feet is required under the City's LDRs. Lots within the 2nd Section of Belle Isle Villas Subdivision, as recorded in Plat Book 5, Page 11 of the Public Records of Miami-Dade County, Florida, are uniquely platted with substantially smaller lot sizes than generally found in other designated RM-1 zoning districts throughout the City. The Property as it currently exists, a corner lot within the 2nd Section of Belle Isle Villas Subdivision, maintains the same dimensions and lot area as it did when the Property was originally platted on December 24, 1941. Due to the substandard lot size and unique configuration of the Property (lot depth is 33' on the South and gradually increases to 47' max on the North), the abovementioned variances are necessary to construct a reasonably sized and shaped structure on the Property, particularly the proposed Chabad House.

Please note, per confirmation from the City Attorney's Office, the Property is a legally established lot that satisfied the lot area requirements at the time of platting³. Therefore, the

³ Pursuant to Section 118-390(d)(1) of the City LDRs, a legally established lot is defined as "A lot that does not meet the lot frontage, lot width, lot depth, and/or lot area requirements of the current zoning district, provided that such lot met the regulations in effect at the time of platting."

previous variance requesting a reduction in the permissible lot size has been withdrawn in accordance with Comment 5(a) of the City Review Comments, dated March 1, 2019.

Section 118-353(d) of the City's LDRs delineates the standards of review for a Variance application. Specifically, a Variance shall be approved upon demonstration of the following:

- (i) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

Satisfied; The Property's legal non-conforming lot size and irregular configuration provides unique development limitations on the Property. Applying the standard setback requirements would severely restrict the development of any permitted structure or use on the Property, rendering the Property virtually unusable.

- (ii) The special conditions and circumstances do not result from the action of the applicant.

Satisfied; The substandard lot area and configuration of the Property exists today, as originally platted. As a result, the hardship and proposed variances associated with the Property do not result from the action or inaction of the Applicant. The hardship related to the requested variances would still exist for the construction of a single-family home at the Property or other allowable RM-1 uses.

- (iii) Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district.

Satisfied; The requested variances are a direct by-product of the undersized nature of the lot coupled with the irregular shape of the lot. Note, comparable setback and lot size variances have been granted to similarly situated property owners on Farrey Lane and Century Lane due to the non-conforming and undersized nature of the lots (albeit, those lots were "more regularly" shaped than the Property).

- (iv) Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant.

Satisfied; Failure to approve the requested variances will create an undue hardship on the Applicant as it would restrict redevelopment of the Property similar to other similarly situated properties, including recent development approvals on Farrey Lane. Specifically, the side interior setback required for religious institutions in the RM-1 zoning district would further cannibalize the buildable area at the Property, as the 50-foot setback constitutes nearly half of the existing lot width and is not currently satisfied for the existing religious use. Again, the

Applicant did not create or attempt to modify the lot size or configuration of the Property. Rather, the Applicant seeks to fully utilize the undersized lot with the intention of providing a more appropriate and modernized safe space where local families can come together for Jewish services. The size and shape of the lot create the hardship driving the design of the Property and resulting variances.

- (v) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

***Satisfied;** Given the site constraints, the number and scope of the variances are the minimum necessary to construct the Chabad House in accordance with code requirements (e.g., 2 stairwells).*

- (vi) The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

***Satisfied;** Notwithstanding the undersized nature of the Property and requested variances, the Project is largely in compliance with the RM-1 zoning regulations and is in harmony with the general intent and purpose of the City LDRs.*

Applicant has worked closely with City staff to design a functionally sensitive and contextually appropriate space for the local Jewish community that is also reflective of the residential character of Farrey Lane. Specifically, the Project was designed akin to the newly renovated and approved homes in the area that were similarly restricted due to lot size and location. As a result, the proposed variances encompassed in the design, scale and massing of the Chabad House are also consistent with the requested variances and approvals associated with the nearby residential homes in the area recently approved by the Design Review Board.

- (vii) The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

***Satisfied;** The requested variances will allow for the redevelopment of the Property consistent with the City Comprehensive Plan and will not reduce levels of service.*

b. Waivers

The Applicant is requesting a Waiver pursuant to Section 142-155(a)(3)(e) to increase the maximum lot coverage from 45% to 64%. As noted throughout, due to the Property's unique configuration and undersized nature of the lot, the increased lot coverage is required by necessity. As such, a waiver to increase the maximum lot coverage is being requested, which will alleviate a practical difficulty caused by the unique site and allow a functional design. Note, the ground floor contains less lot coverage, but the 2nd and 3rd floor extends over portions of the ground floor open areas. These open areas at the ground floor are intended to benefit the pedestrian realm, while utilizing the upper floor for the sanctuary space.

A second waiver is being requested pursuant to Section 142-155(a)(3)(f) to allow a height of 10 feet at the ground floor parking area where 12 feet is required, as measured from the base flood elevation to the underside of the first floor slab.

IV. Sea Level Rise and Resiliency Review Waiver

Section 133-50(a) provides review criteria for compliance with the City's recently adopted sea level rise and resiliency criteria.

- (i) *A recycling or salvage plan for partial or total demolition shall be provided.*

A recycling plan will be provided as part of the submittal for a partial/total demolition permit to the building department.

- (ii) *Windows that are proposed to be replaced shall be hurricane proof impact windows.*

All renovated and newly constructed windows on the Property will be hurricane proof impact windows.

- (iii) *Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.*

Passive cooling systems, such as operable windows, may be installed as appropriate.

- (iv) *Whether resilient landscaping (salt tolerate, highly water absorbent, native or Florida friendly plants) will be provided.*

All new landscaping will consist of Florida friendly plants.

- (v) *Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change compact, including a study of land elevation and elevation of surrounding properties were considered.*

Sea Level Rise projections were taken into account, and as a result the proposed Project is designed to Base Flood Elevation (BFE) plus 1' to comply with the LDRs, protect against rising sea levels and encourage flood defense for the Property.

- (vi) *The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.*

The existing driveways into the covered parking area is located at an elevation of 5'3" and 5'5" NGVD. This elevation is consistent with potential future roadway elevations with additional room to raise in the future.

- (vii) *Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation with room to raise.*

All critical mechanical and electrical systems will be concealed on the roof of the structure, including air conditioning units. Please note, there is an enclosed ground floor mechanical room located at 5'3" NGVD.

- (viii) *Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.*

The existing building on the Property is located below BFE. The new Chabad House is designed at BFE plus 1' to comply with current LDR requirements at 10' NGVD.

- (ix) *When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter 54 of the City Code.*

The proposed redevelopment will not contain any habitable space located below the Base Flood Elevation.

- (x) *Where feasible and appropriate, water retention systems shall be provided.*

The Applicant will explore various water retention systems for the Project.

V. Conclusion

The Applicant is requesting Design Review Board approval of the proposed three-story Chabad House at the Property in addition to a waiver and certain setback variances associated with this Project. The design, scale and massing of the renovation to the Property is appropriate and consistent with the newly approved and renovated homes in the neighborhood and will provide the local congregation with a safer space to worship, learn and observe Judaism in a comfortable atmosphere. Based on the foregoing, we respectfully request your favorable consideration of this Application.

Sincerely,



Ethan B. Wasserman, Esq.

BEW:dv

ACTIVE 19923629v9

**PLANNING BOARD
OF MIAMI BEACH, FLORIDA**

PROPERTY: 14 Farrey Lane
Chabad Lubavitch of Venetian
Causeway and Surrounding
Islands, Inc.

FILE NO: 1676

IN RE: The application by Chabad Lubavitch of Venetian Causeway and Surrounding Islands, Inc., requesting a Conditional Use approval to convert a single-family residence into a place of worship.

LEGAL DESCRIPTION: Lot 14 of Belle Isle Villas 2nd Section according to the Plat thereof as recorded in Plat Book 42 at Page 100 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: August 24, 2004

CONDITIONAL USE PERMIT

The applicant, Chabad Lubavitch of Venetian Causeway and Surrounding Islands, Inc., filed an application with the Planning Director for a Conditional Use Permit pursuant to Section 118-192 of the City Code. Notice of the request for Conditional Use was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property, upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

That the property in question is located in a single-family neighborhood within the RM-1, Low Intensity Multi-Family Residential Zoning District;

That the intended Use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and Uses associated with the request are not consistent with the Land Development Regulations of the City Code, but would be consistent subject to the following conditions;

That the public health, safety, morals, and general welfare will not be adversely affected if the following conditions are in compliance;

That the necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, the staff report and analysis, which is adopted herein, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall come back to the Board within 90 days of the date of approval of this Conditional Use Permit, or Certificate of Use approval, whichever occurs later, to provide a progress report; mailed notice shall be provided to the residents on Farrey Lane at applicant's expense. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to Chabad Lubavitch of Venetian Causeway and Surrounding Islands, Inc., only. Any change of use or ownership shall require review and approval by the Planning Board as a new application.
3. The maximum occupancy for the Chabad Lubavitch of Venetian Causeway and Surrounding Islands, Inc., shall be as follows unless the Fire Marshall determines that the occupant content for the premises is lower than what is stipulated below:
 - Fridays and Saturdays – 18 persons
 - Other days of the week – 15 persons
 - Except that there shall be a maximum of 30 persons during six holidays (six 24-hour periods) a year
4. The hours of operation shall be as follows:
 - Friday – sundown to midnight.
 - Saturday – 10:00 a.m. to 1:00 p.m.
 - Sunday – 9:30 a.m. to noon
 - Wednesday – 7:00 p.m. to 10:00 p.m.
 - High Holidays – 10:00 a.m. to 1:00 p.m.
5. The existing driveway shall be maintained and repaired as may be necessary; and the three parking spaces proposed by the applicant shall not be permitted. The applicant shall pay a fee in lieu of providing the required parking spaces.
6. The applicant shall make contractual arrangements with a valet parking operator for the convenience of the persons that may be arriving via private vehicles. The storage of vehicles shall be at a nearby location and not east of Biscayne Bay as originally proposed. Compliance with this condition shall be a pre-requisite to obtaining a Certificate of Use or Occupational License, whichever may apply.

7. The main entrance to the Chabad Lubavitch of Venetian Causeway and Surrounding Islands shall be through the existing front door on the west elevation of the existing structure.
8. No signage shall be permitted.
9. A landscape plan shall be submitted to staff for review and approval. The front lawn (south side of property) shall be sodded and the existing landscaping maintained.
10. The accessibility ramp proposed on the front of the structure (west elevation) shall not be permitted. The accessibility ramp shall be located on the side or rear of the property with plans to be reviewed and approved by staff.
11. Violation of the Miami-Dade County Code Section 21-28 (a/k/a "noise ordinance") shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Sec. 118-194 of the City Code.
12. The Planning Board shall retain the right to call the Chabad Lubavitch of Venetian Causeway and Surrounding Islands back before them and modify the hours of operation should there be repeat complaints about noise or non-compliance with any of the stated conditions.
13. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), as deemed to be necessary, by paying its fair share cost as determined by the Transportation Concurrency section.
14. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
15. The applicant shall satisfy outstanding liens and past due City bills to the satisfaction of the City prior to the issuance of a certificate of use or an occupational license, whichever applies.
16. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a Certificate of Use or Occupational License, whichever may be required by City Code.
17. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

Dated this 27TH day of September, 2004.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Jorge G. Gomez, AICP, Planning Director
FOR THE CHAIRMAN

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 27TH day of September, 2004, by Jorge G. Gomez, AICP, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



{NOTARIAL SEAL}

[Signature]
Notary:
Print Name CHARLES A. TAFT
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department (gHed 9-14-04)

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